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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,227	03/21/2001	James K. Vanderveen	60,426-242(2000P09010US01	2008
24500	7590	06/07/2005	EXAMINER	
SIEMENS CORPORATION INTELLECTUAL PROPERTY LAW DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830			GRIER, LAURA A	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/814,227

Applicant(s)

VANDERVEEN, JAMES K.

Examiner

Laura A. Grier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-15,17,22-24 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-15,17,22-24 and 27-30, 32-36 is/are rejected.
- 7) ☒ Claim(s) 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The indicated allowability of claim 34 is withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 3, 5-9, 17, 22-24, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Everingham in view of De Bruine and further in view of applicant's admitted prior art (herein, AAPA).**

Regarding **claims 1, 17 and 22-23 and 34**, Everingham discloses a system and method for reducing engine noise (figure 1) for use in automotive vehicles (col. 1, lines 6-7). Everingham's disclosure comprises a duct housing with an opening for receiving air (10), comprising a loudspeaker (30) mounted within the housing in a speaker enclosure (22), wherein the housing is connected to a vehicle structure, therein (col. 1, lines 35-41 and 2, lines 20-40) and an air cleaner housing (20). However, Everingham fails to specifically disclose the housings being mounted by brackets to a vehicle structure, or the speaker housing and air cleaner housing being plastic or positioned as claimed. The examiner maintains that such a mounting means and the plastic housings were well known in the art.

Regarding the mounting brackets, in similar field, De Bruine et al. (herein De Bruine) discloses a universal mounting bracket for use in exhaust area of vehicle comprising a first portion and second portion; the first portion (a support rod) extending to connect to the vehicle, and a second portion comprising a clamps for clamping the exhaust or the like coupled to a support plate (col. 2, lines 20-68 and col. 3, lines 1-16), which constitutes as a distal portion joined the 1st or 2nd housing portion, wherein it obvious to have more than one such structure for supporting more than one device as mentioned by De Bruine that multiple or plurality of brackets have been used previously used to mount components to a vehicle (background).

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Everingham by providing a mounting bracket for the purpose of providing efficient support and stability for mounting an speaker housing in a combustion area and coupling to a vehicle.

Regarding the plastic housings, The AAPA discloses that it is common for vehicle structures to be made of plastic.

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Everingham by implementing plastic housing structures, wherein the plastic housing structures are commonly used in vehicles and economical in manufacturing.

Regarding the positioning of the air cleaner to the speaker and the engine, it would have been obvious to one of the ordinary skill at the time to invention was made to position the air cleaner between the speaker housing and an engine, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding **claim 3**, Everingham, De Bruine and AAPA (herein, Everingham combination) disclose everything claimed as applied above (see claim 1). De Bruine further discloses that the mounting means such as rubber insulators between the brackets and vehicle (abstract and col. 4, lines 21-38) for added security and stability of the mount, reducing vibration, etc.

Regarding **claim 5**, Everingham combination discloses everything claimed as applied above (see claim 1). De Bruine further discloses mounting via welding (col. 4, lines 35-38).

Regarding **claims 6-8**, Everingham combination discloses everything claimed as applied above (see claim 1). De Bruine further discloses mounting via welding (col. 4, lines 35-38) or the like. Thus, various mechanical techniques, fastening, pre-formed for easy insertion (e.g. snap-fitting), for mounting a bracket to another structure. Thus, it would have been obvious to one skill in the art at the time of the invention to implement any one of the various commonly known and/or used techniques for mounting the bracket.

Regarding **claim 9**, Everingham combination discloses everything claimed as applied above (see claim 1). De Bruine further discloses that the bracket comprises a plurality of apertures and may be adjusted longitudinally and laterally (col. 2, lines 8-34, and col. 26-31). Then it would have obvious to combine two or more brackets of such structure to comprising a single bracket comprising multiple legs for providing sufficient support of the length and weight capacity of the duct housing structure to the vehicle for the purposes of lessening vibrations movements and other instabilities that may occur.

Regarding **claim 24**, Everingham and De Bruine disclose everything claimed as applied above (see claim 22). De Bruine further discloses that the mounting means such as rubber

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insulators between the brackets and vehicle (abstract and col. 4, lines 21-38) for added security and stability of the mount, reducing vibration, etc.

Regarding **claims 27-30**, Everingham combination discloses everything claimed as applied above (see claim 22). De Bruine further discloses mounting via welding (col. 4, lines 35-38) or the like. Thus, various mechanical techniques, fastening, pre-formed for easy insertion (e.g. snap-fitting), for mounting a bracket to another structure. Thus, it would have been obvious to one skill in the art at the time of the invention to implement any one of the various commonly known and/or used techniques for mounting the bracket.

4. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Everingham in view of De Bruine. and further in view of applicant's admitted prior art (herein, AAPA).

Regarding **claims 10**, Everingham discloses a system and method for reducing engine noise (figure 1) for use in automotive vehicles (col. 1, lines 6-7). Everingham's disclosure comprises a duct housing with an opening for receiving air (10), comprising a loudspeaker (30) mounted within the housing in a speaker enclosure (22), wherein the housing is connected to a vehicle structure, therein (col. 1, lines 35-41 and 2, lines 20-40) and reads on providing a generic speaker housing common to multiple vehicle types, the loudspeaker housing is part air cleaner housing (20). However, Everingham fails to specifically disclose the housings being mounted by brackets to a vehicle structure. The examiner maintains that such a mounting means were well known in the art.

Regarding the mounting brackets, in similar field, De Bruine et al. (herein De Bruine) discloses a universal mounting bracket for use in exhaust area of vehicle comprising a first portion and second portion; the first portion (a support rod) extending to connect to the vehicle,

and a second portion comprising a clamps for clamping the exhaust or the like coupled to a support plate (col. 2, lines 20-68 and col. 3, lines 1-16), which constitutes as a distal portion joined the 1st or 2nd housing portion, wherein it obvious to have more than one such structure for supporting more than one device as mentioned by De Bruine that multiple or plurality of brackets have been used previously used to mount components to a vehicle (background).

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Everingham by providing a mounting bracket for the purpose of providing efficient support and stability for mounting an speaker housing in a combustion area and coupling to a vehicle.

5. **Claims 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over Everingham in view of De Bruine and further in view of AAPA.

Regarding claim 10, the plastic housings, The AAPA discloses that it is common for vehicle structures to be made of plastic.

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Everingham and DeBruine by implementing plastic housing structures, wherein the plastic housing structures are commonly used in vehicles and economical in manufacturing.

Regarding **claims 21 and 33**, respectively, AAPA discloses rubber grommets being used to mount the housing to a vehicle. Thus, it would been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Everingham by providing rubber grommets for the purpose of providing additional isolation.

Regarding **claims 12-15**, Everingham combination discloses everything claimed as applied above (see claim 10). De Bruine further discloses mounting via welding (col. 4, lines 35-38) or the like. Thus, various mechanical techniques, fastening, pre-formed for easy insertion (e.g. snap-fitting), for mounting a bracket to another structure, it would have been obvious to one skill in the art at the time of the invention to implement any one of the various commonly known and/or used techniques for mounting the bracket to the speaker housing, therein.

Regarding claim 35, Everingham, and DeBruine disclose everything claimed as applied above (see claim 10). Regarding the positioning of the air cleaner to the speaker and the engine, it would have been obvious to one of the ordinary skill at the time to invention was made to position the air cleaner between the speaker housing and an engine, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claim 36, Everingham and DeBruine disclose everything claimed as applied above (see claim 35). It would have been obvious to one of the ordinary skill in the art to provide support of the speaker and air cleaner housing for providing support with distal portions of bracket for the purpose of providing more stability.

Allowable Subject Matter

6. Claim 34 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1, 3, 5-15, 17, 22-36 have been considered but are moot in view of the new ground(s) of rejection.


The applicant essentially argues on page 9 that the Hazelwood et al. fails to disclose the claimed invention as amended. Hazelwood reference rejection has been removed. The applicant also argues that Everingham fails to disclose the claimed positioning of the speaker housing and engine in respect to the air cleaner and indicates that such claimed position provides for a useful benefits not achieved by conventional designs. However, the claim language fails to limit the positioning of the air cleaner, speaker housing and engine with specific function or advantage. And even though, De Bruine also indicates various diameters of the exhaust pipes can be accommodated and mounted structures with in the vehicles, which indicates obviousness that components the size of a speaker housing and air cleaner housing can be supported by the bracket assembly of De Bruine as previously argued. An argument is provided in respect to DeBruine's use of clamp verses a bracket. A clamp and a bracket may serve the same purpose, which is to provide support, and well the other various claimed mounting components are commonly used components for like structures such as speaker housing, etc. and thus, would have been obvious. Thus, the rejection of Everingham and De Bruine is maintained in respect to all claim rejections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Grier whose telephone number is (571) 272-7518. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh N. Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Laura A. Grier
May 31, 2005